

**MEMO ENDORSED**

# Roth & Roth, LLP

192 LEXINGTON AVENUE, SUITE 802, NEW YORK, NEW YORK 10016  
ROTHANDROTHLAW.COM T: (212) 425-1020 F: (212) 532-3801

May 16, 2024

**Via ECF**

Hon. Jessica G.L. Clarke, U.S.D.J.  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *Javier v. NYC Transit Authority, et al.*, 22-cv-11010 (JGLC)

Dear Judge Clarke:

Along with Bob Genis, my firm represents the plaintiff in the above-referenced matter. I write to respectfully submit a joint request for a 90-day extension of the discovery deadlines outlined in the scheduling order entered at ECF 41, which currently sets the close of fact discovery for this Friday, May 17, 2024. The parties are jointly requesting this extension for several reasons.

First, my father, who resides in Indiana, has been seriously ill and hospitalized at the Cleveland Clinic, necessitating significant travel and time away from work to care for him. This situation has prevented me from being able to do significant work on this case.

Second, following the plaintiff's deposition, the defendants requested that the plaintiff make a settlement demand. The parties have recently commenced settlement discussions, which we hope will lead to a resolution without further litigation.

Third, the parties have met and conferred at length several times regarding various issues. Recently we met and conferred regarding outstanding discovery responses owed by the defendants. The defendants have agreed to serve their responses within the next 30 days.


Additionally, the parties met and conferred concerning the need, scope, and proportionality of electronically stored information (ESI) in this case and the defendants' track intrusion data. We continue working to resolve this dispute without the need for motion practice.

Since the October 23, 2023 conference, we have exchanged significant paper discovery and conducted the plaintiff's deposition. We are currently scheduling the depositions of the train conductor, and have requested contact information regarding former NYCT employee Kenneth Brown who was the Director of Risk Assessment and Fire Safety for the NYCT. Plaintiff is also considering deposing other employees and will advise counsel of same upon receipt of remaining discovery. Plaintiff reserves to the right to request permission to conduct depositions beyond the limitations set forth in FRCP Rule 30.

Given these circumstances, we believe that a 90-day extension of the discovery deadlines is necessary to allow all parties to complete the outstanding discovery and continue meaningful settlement negotiations.

We greatly appreciate the Court's consideration of this request. Please let us know if Your Honor requires any additional information or would like to discuss this matter further.

Respectfully submitted,



Elliot Shields

cc: All Counsel of Record (via ECF)

Application GRANTED. In accordance with this Rule 2(e) of this Court's Individual Rules and Practices in Civil Cases, the parties are ORDERED to submit a proposed Revised Civil Case Management Plan and Scheduling Order reflecting the requested discovery deadline by no later than **May 20, 2024**. The Clerk of Court is directed to terminate the motion at ECF No. 43.

SO ORDERED.



JESSICA G. L. CLARKE  
United States District Judge

Dated: May 17, 2024  
New York, New York